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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,164	10/21/2003	Terry G. Jones	HORS:007	3946

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EXAMINER
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MYERS, ADAM C

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/690,164

Applicant(s)

JONES ET AL.

Examiner

Adam C. Myers

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 926/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Mze*

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: on page 11, line 8 and on page 12, line 7, "top 102" should be "top 104".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the specification, the top 104 is disclosed as convex, and the bottom 102 is disclosed as concave. In Claim 6, the lid (understood to be top 104) is claimed as being concave, and in claim 7, the pan (understood to be the bottom 102) is claimed as being convex. Since the terms concave and convex are opposite in meaning, one skilled in the art would not arrive at the claimed invention based on the specification provided.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Cornfield, US patent number 6,360,654.

With respect to claims 11-13, the instant claims would be anticipated by prior art that includes a recess about which a kitchen utensil could be placed for lifting the lid away from the pan. This is a widely practiced and known skill in the art, as during cooking, the lid, and a subsequent handle, would be too hot to handle without additional utensil. In Cornfield, a handle is disclosed about the top of a lid (see Figs. 1, 2, and 5, and col. 3, lines 8-20). This handle includes a recess about which a utensil could be placed for the lifting of the lid away from the base so as to not burn the handler.

With respect to claims 14, the prior art teaches a method of cooking, the method comprising, enclosing food in a shell, locating the shell directly in a multi-dimensional heat source, directing heat transfer into and through the shell, and circulating heat gas within the shell (see col. 5, line 40 to column 6, line 17).

With respect to claim 15, the prior art teaches a method comprising, supplying a curvilinear pan of thin thickness, placing food in the curvilinear pan, and engaging a curvilinear top of thin thickness atop the pan to form an enclosure. (see Fig. 6 and col. 3, line 65 to col. 4, line 4, and col. 5, line 46).

With respect to claims 16-19, it is inherently known that cookware, including that taught in the prior art, is re-useable for cooking. It is also inherently known that the food

can be served directly from cookware, given the shape of cookware relating closely to that of serving apparatus, i.e. bowls, plates, and platters.

With respect to claims 20 and 21, the prior art teaches a product cooked food produced by methods anticipating the instant claims 14 and 15 (see col. 5, line 40 to column 6, line 17).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornfield in view of the disclosure taught in <http://www.innova-inc.com/Training-Guages.asp>.

In Cornfield, a system for baking is disclosed, the system comprising, a thin-walled bottom and a thin walled top (see Fig. 6). The system further comprises a bottom including a substantially curvilinear shell and a top including a substantially

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curvilinear shell (see Figs. 1, 6), an implement fixture attached to the top (see Fig. 5), a handle attached to the bottom (see Figs. 1, 2, and 4), a pan with an upper opening, a lid engageable with the pan (see Figs. 2, 6), and a pan enterable via the upper opening (see Fig. 2) a convex inside of the lid wherein the pan and lid are engageable to form an internally curvilinear surfaced enclosure (see Fig. 6). It is disclosed that the system of the prior art is constructed of aluminum or steel (see col. 2, lines 49-56), and that the relatively uniform thickness of the of the pan and top effect fast heat transfer to the interior (see col. 5, line 40 to column 6, line 17).

In the prior art, the thickness of the pan is not disclosed. In the art, there is a disclosure comprising a comparison of the invention claimed in the art with a system comprising a pan of a thickness of about 3mm. This comparison is done in order to gauge heat transfer into the pan system. As taught on the Innova website, pans of aluminum are commonly sized at 12 gauge, or about 2 mm. It is also taught on the Innova website that the standard for stainless steel cookware is 0.6mm. Thus, having viewed the disclosure of Cornfield, one skilled in the art could produce an aluminum or stainless steel baking system within the ranges of the instant claims.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cornfield in view of Morgan, US patent number 6,789,466. The teachings of Cornfield have been discussed above. What is not taught in Cornfield is a system comprising at least one detent of the bottom and at least one notch of the top, wherein the detent is engageable with the notch to locate the top to the bottom. Morgan teaches a baking apparatus comprising a locking apparatus, the locking apparatus further comprising, a bottom with

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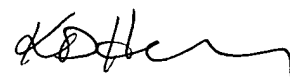
at least one detent, engageable with at least one notch in the top (see Figs. 2, 3 and col. 5, lines 58-63). In Cornfield, a region of the bottom has been disclosed to engage the top (see col. 3, line 65 to col. 4, line 4). Morgan discloses that the invention disclosed in the art of Morgan solves the complex construction problems of domed baking apparatus through the employment of the locking apparatus above. Through these combined motivations, one skilled in the art could apply the locking system of Morgan to the baking system of Cornfield.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam C. Myers whose telephone number is 571-272-6466. The examiner can normally be reached on Monday-Friday, 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**KEITH HENDRICKS**  
**PRIMARY EXAMINER**